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ABSTRACT

This brochure describes a cooperative way to help resolve differences of opinion between New York parents and schools regarding special education programs and services. It describes special education mediation as a process in which the parent or guardian of a student with a disability and a representative of the school district meet with a mediator. who is an independent person. Such issues as when and where meetings are scheduled and the lack of costs to parents are noted. Commonly asked questions are answered, dealing with mediator qualifications, impact of mediation on other due process rights, and who can attend a mediation meeting. The brochure also includes a form which the parent of a child with a disability can use to request a mediation meeting. (JDD)

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SPECIAL EDUCATION MEDIATION

Real Solutions Where Everyone Wins

THIS BROCHURE DESCRIBES A COOPERATIVE WAY TO HELP RESOLVE DIFFERENCES OF OPINION BETWEEN PARENTS AND SCHOOLS REGARDING SPECIAL EDUCATION PROGRAMS AND SERVICES. IT ALSO INCLUDES A FORM WHICH THE PARENT OF A CHILD WITH A DISABILITY CAN USE TO REQUEST A MEDIATION MEETING.

The University of the State of New York
The State Education Department
Office for Special Education Services

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A DESCRIPTION OF SPECIAL EDUCATION MEDIATION

A PROGRAM OF THE STATE EDUCATION DEPARTMENT

Your school district has voluntarily agreed to participate in a new Special Education Mediation Demonstration Program, which is intended to improve communication between parents and the school district in matters relating to the provision of special education programs and services. This demonstration program has been established by the State Education Department, Office for Special Education Services.

COOPERATIVE DISCUSSION TO REACH AGREEMENT

Special Education Mediation is a process in which the parent or guardian of a student with a disability and a representative of the school district meet with a mediator, who is an independent person. By asking questions and discussing all information with both parties, the mediator helps the parents and the school district representative to reach a more complete understanding of each other's concerns and to reach agreement about the special education program for the student in a cooperative and timely manner. At the end

of the mediation session, whatever the parents and the school district representative agree should be done is written down. The district will then arrange to carry out the agreed upon program. Agreement may be reached on any or all of the issues which were discussed during the mediation session. Any issue(s) not settled at the mediation session can be discussed further with the Committee on Preschool Special Education (CPSE) or the Committee on Special Education (CSE) or can be reviewed by an impartial hearing officer.

SCHEDULED WITHIN 2 WEEKS OF REQUEST

A special education mediation meeting will be held at a neutral site, not at the school, within two weeks of the date of the parent's written request to the CPSE or CSE. The law enacted by the Legislature requires that all demonstration program mediations be conducted by a Community Dispute Resolution Center (CDRC). Each Center is staffed by a number of highly qualified mediators who are not employed by the school district or by the State Education Department. The mediators are volunteers who have various occupations, and all have the special training and skills to facilitate the mediation process.

NO COST TO PARENTS

Parents are not responsible for the costs of special education mediation. Such costs are the responsibility of the State Education Department. Parents are in no way obligated to agree to services or programs which they do not feel are appropriate for their child. At the end of the mediation session, the parents and the school district representative will be asked to complete an evaluation of the mediation process to help determine the extent to which it was successful in improving communication.

ANSWERS TO QUESTIONS YOU MAY HAVE REGARDING SPECIAL EDUCATION MEDIATION

Is Mediation a New Idea?

Special Education Mediation is a new idea in New York State. In many other states, this type of mediation is a highly successful alternative to the more formal, time consuming, and expensive impartial hearing process. Your school district has voluntarily decided to make mediation available to parents in order to improve communication and cooperation in matters related to special education programs and services.

How Does the Use of Mediation Affect My Other Due Process Rights?

Mediation is an additional due process procedure which your school district has chosen to make available. Your other due process rights are not changed in any way by asking for mediation. You can request an impartial hearing at anytime before, during, or after the mediation.

Where Will My Child be Placed During Mediation?

Your child will remain in his or her current school program, unless you and the school district agree on another placement on an interim basis.

What Are the Qualification of the Mediators?

Mediators are volunteers who receive at least 25 hours of specialized training in conflict resolution from one of the participating Community Dispute Resolution Centers. These mediators also receive update training at least two times per year. In addition to this preparation, each mediator who will conduct a special education mediation receives 12-16 hours of training in special education laws and regulations from the State Education Department.

What Are Community Dispute Resolution Centers?

Community Dispute Resolution Centers are nonprofit agencies which provide community dispute resolution services through the Unified Court System of the State of New York. They currently serve 62 counties in the State and are highly successful in resolving minor criminal and civil matters such as rent disputes and marital problems. Since 1988, selected Centers have expanded their services to include issues related to special education.

Who Can Attend a Mediation?

Generally, the parent(s) or guardian(s) and a representative of the school district attend mediation. Since mediation is intended to improve communication, the parties represent themselves in discussions regardless of by whom they are accompanied. Either party, however, may be accompanied by others, including an attorney. Regardless of who attends, the request for mediation, the discussions during the meeting, and the agreement will be held in confidence.

Where Will the Mediation Take Place?

The mediation meeting will take place at a neutral site arranged by the local Community Dispute Resolution Center. The Center will contact both parties to be sure that the time, date, and location for the mediation meeting are convenient.

How Do I Request that Mediation Take Place?

You can request mediation simply by completing the Request Form on the last page of this brochure and sending it to your child's Committee on Preschool Special Education (CPSE), Committee on Special Education (CSE), or to the school district Board of Education (BOE). You can also request mediation by writing to the school district's Committee on Preschool Special Education, Committee on Special Education, or Board of Education. The school will immediately forward your request to the local Community Dispute Resolution Center. The Center will assign a mediator and arrange a mediation meeting. Usually, the entire process is completed within two weeks of the Center's receipt of your request.

Can the School District Request Mediation?

No. Mediation can only be initiated upon the written request of the parent or guardian. In discussions regarding due process procedures, the school district may bring special education mediation to the attention of parents.

If Mediation Does Not Result in an Agreement and an Impartial Hearing Is Initiated, Can Mediation Discussions or Materials Be Submitted at the Hearing?

At an impartial hearing following mediation, only written agreements may be presented as evidence. No

summary of actual discussions or offers of settlement will be permitted.

How Is Special Education Mediation Different Than an Impartial Hearing?

At mediation, the mediator facilitates communication between the school district and the child's parent or guardian to help them reach agreement regarding the issue(s). At an impartial hearing, the hearing officer renders a decision based on evidence and testimony.

How Can I Get More Information Regarding Special Education Mediation?

Additional information may be obtained by contacting your school district Committee on Preschool Special Education or Committee on Special Education, or by contacting your local Special Education Training and Resource Center (SETRC). Information may also be obtained by contacting the State Education Department, Office for Special Education Services, by telephoning (518) 474-8917.

SPECIAL EDUCATION MEDIATION

REQUEST FORM

Mediation is available as a means to improve communication and resolve differences of opinion between the parents or guardian of a student with a disability and the school district. At mediation, the parents and a representative of the school district meet with an independent mediator to reach a more complete understanding of one another's concerns and to reach an agreement about the special education programs and services the student will receive.

Unlike an impartial hearing, at the end of which an impartial hearing officer makes a decision, the mediator does not make a decision but assists the parent and school district in coming to an agreement. At the end of the mediation session, whatever the parents and the school district representative agree should be done is written down and will then be provided to the student by the school district. Agreement may be reached on any or all of the concerns or issues which were discussed during the mediation session. Any issues which remain unresolved after mediation can be discussed further with the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) or can be reviewed by an impartial hearing officer, if desired. During the mediation and any other due process procedures, the child will remain in the current educational program.

Participating in mediation is a choice which is available to you. Choosing to participate in mediation *does not limit* other alternatives you have, such as requesting a meeting with the CSE or CPSE or requesting an impartial hearing, which you may do at any time.

To request special education mediation, please complete the following request form and return it to the school district Committee on Preschool Special Education, Committee on Special Education or Board of Education.

I _____, parent/guardian of
(Name of Parent/Guardian)

_____, request mediation.
(Name of Child)

Please briefly describe the issue(s) you wish to discuss at the mediation session. (This is Optional):

Address, Zip Code

( )
Telephone

Date

Signature

Immediately upon receiving this request, the school district will forward it to the Community Dispute Resolution Center in your area. A representative of the Center will contact you and the school district to schedule a mediation meeting at a convenient time, date and location.

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